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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/963,819	09/26/2001	Katia Bredo	CM2435	1184
27752	7590	03/02/2004		
THE PROCTER & GAMBLE COMPANY INTELLECTUAL PROPERTY DIVISION WINTON HILL TECHNICAL CENTER - BOX 161 6110 CENTER HILL AVENUE CINCINNATI, OH 45224			EXAMINER	STINSON, FRANKIE L
			ART UNIT	PAPER NUMBER
			1746	
DATE MAILED: 03/02/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/963,819	<b>Applicant(s)</b> BREDO ET AL.
	<b>Examiner</b> FRANKIE L. STINSON	<b>Art Unit</b> 1746

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 16 December 2003.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-5 and 7-16 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) 16 is/are allowed.  
 6) Claim(s) 1-5 and 7-15 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |                                                                                                                        |                                                                             |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                            | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date. _____                                                |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|                                                                                                                        | 6) <input type="checkbox"/> Other: _____                                    |

1. Claims 1, 2, 7 and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Re claim 1, line 7, the phrase "said vessel" is without proper antecedent basis. Re claim 7, line 1, the phrase "any of claim 4" is confusing.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-8 and 11-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beaulieu in view of either Toetschinger et al., Kildow or Baker.

Re claims 1 and 3, the patent to Beaulieu is cited disclosing a static device for cleaning a liquid-containing vessel, comprising a motor coupled to a pump and a reservoir for cleaning liquid that differs from the claim only in the recitation of the energy storage means, the rinse reservoir and the intended use of cleaning a bath tub. The patents to Toetschinger, Kildow and Baker are each cited disclosing in a device suitable for cleaning, the old and well-known concept of providing a pump for pumping liquid, including a motor powered by an energy storage means. It therefore would have been obvious to one having ordinary skill in the art to modify the device of Beaulieu, to include an energy storage means as taught by either Toetschinger, Kildow or Baker, for the purpose of allowing for portability of the device, or to removed the dependency of an electrical outlet or to lessen the chance of electrical shock. Furthermore, the patents

Kildow and Baker clearly suggest the use of either standard household electricity or rechargeable batteries. As for the intended use of cleaning a bathtub, please note that the intended use is not deemed to structurally define over the applied prior art in that the body of the claim fails to recite any features that would limit the device for cleaning bathtubs only. Nonetheless, Toetschinger discloses that the device is for placing in a bathtub and for cleaning the same (see col. 5, lines 13-19). Re claim 2, Beaulieu discloses the filter. Re claims 4, Toetschinger disclose the reservoir for rinse liquid. Re claim 5, to have the capacity as claimed is deemed to be an obvious matter of design in view of the inherent capacity of Beaulieu, Toetschinger, Kildow or Baker. Re claim 7, Beaulieu, as proposedly modified, Toetschinger, Kildow and Baker all disclose the battery as claimed. Re claim 8, Beaulieu discloses the non-floating device. Re claim 11, Beaulieu, Toetschinger, Kildow and Baker disclose the spray nozzle. Re claim 12, Beaulieu, Toetschinger, Kildow and Baker disclose the pump. Re claims 13 and 14, Toetschinger discloses the reservoir for the cleaning compositions as claimed. Re claim 15, Toetschinger discloses the docking station (see col. 5, lines 37-41)

4. Claims 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over the applied prior art as applied to claim above, and further in view of either Widman or Kuntz.

Claims 9 and 10 define over the applied prior art only in the recitation of the device being secured. Widman and Kuntz are cited disclosing pump and spraying devices where the same is provided with device securing means (19 in Widman and 11 in Kuntz). It therefore would have been obvious to one having ordinary skill in the art to modify the

device of Beaulieu, to include securing means as taught by either Widman or Kuntz for the purpose of preventing the device from tilting over or maintaining the device in a desired orientation.

5. Claim 16 is allowed.

6. Applicant's arguments with respect to claims 1-5 and 7-16 have been considered but are moot in view of the new ground(s) of rejection. However, please note in response to applicant's argument that on the use for cleaning a bathtub, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. In Gettwart et al., Sugai, Japan'199, Luvisotto and Scott, note the pump/spraying devices.

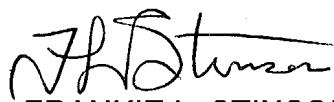
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to FRANKIE L. STINSON whose telephone number is (571) 272-1308. The examiner can normally be reached M-F from 5:30 a.m. to 2:00 p.m. and some Saturdays from 5:30 a.m. to 11:30 a.m.

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application should be directed to TECHNOLOGY CENTER 1700 (571) 272-1700.

Any inquiry for missing parts of this Office Action (copies of references, pages, forms etc.), contact the TEAM LEADER Ms. Nicol Scott (571) 272-1045.

fls



FRANKIE L. STINSON  
Primary Examiner  
Art Unit 1746